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SUBJECT: ARGENTINE APPEALS COURT AGREES THERE IS  
INSUFFICIENT EVIDENCE TO PROSECUTE OR ACQUIT UBERTI IN  
"VALIJAGATE" CASE

REF: BUENOS AIRES 0946

¶1. (SBU) An Argentine appeals court upheld the (reftel) July 3 determination by Judge Daniel Petrone that there is not enough evidence to prosecute or to acquit former Argentine government official Claudio Uberti in the "Valijagate" investigation, involving the infamous Venezuelan suitcase carrying USD 800,000 and seized by Argentine customs in August 2007. The appeals court also, however, restored the possible charge of contraband (which Petrone had dropped) as a line of inquiry for the judicial investigation. Uberti, the former toll-road regulator and Planning Minister Julio De Vido's point man in relations with the Venezuelan government, was fired from his position when it was determined that he authorized Venezuelan-U.S. national Antonini-Wilson to board the August 4 flight from Caracas to Buenos Aires. Judge Petrone has overseen this case since April 22.

¶2. (SBU) The appeals court, the Chamber for Economic Crimes, on December 5 also instructed Petrone to continue insisting on the extradition from the United States of Antonini-Wilson as well as the extradition from Venezuela of former PDVSA executive Diego Uzcategui and his son Daniel. "La Nacion" ran a story December 9 reporting that Argentine Ambassador Hector Timerman was frustrated in his repeated attempts to get information from the USG on the status of Argentina's year-old request for Antonini-Wilson's extradition. "La Nacion" also claimed that USG officials as well as members close to the President-elect's transition team spontaneously acknowledge the pending Antonini-Wilson case as a major irritant to bilateral relations. According to "La Nacion," "the probability that a U.S. judge would extradite Antonini under current circumstances is very low," considering that the Kirchners and other GOA officials publicly attacked Antonini; the Argentine Congress approved a resolution condemning him and the USG; and questions about the political independence of the Argentine judge supervising his case.

¶3. (SBU) The appellate decision means that Uberti remains under investigation not only for money laundering but for contraband, a misdemeanor charge that would be easier for prosecutors to prove than money laundering. "Clarín" also reported December 7 that the GOA is separately investigating Uberti for questionable decisions he made in 2003-2004 as head of OCCOVI, the GOA's toll-road regulating agency.  
WAYNE